

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
Plaintiff,

v.

WILLIAM MITCHELL,  
Defendant.

NO. 2:14-cr-00339-RAJ

ORDER ON DEFENDANT'S MOTION  
FOR COMPASSIONATE RELEASE

**I. BACKGROUND**

This matter comes before the Court on Defendant William Mitchell's motion for compassionate release. Dkt. 48. Having thoroughly considered the parties' briefing and the relevant record, the Court finds oral argument unnecessary and hereby **DENIES** the motion for the reasons explained herein.

Mr. Mitchell is serving his current sentence after pleading guilty to nine counts of Bank Robbery and one count of Interference of Commerce by Robbery. At his plea hearing on June 16, 2015, Mr. Mitchell agreed to the following facts as set forth in the plea agreement:

Count 1: On July 5, 2012, Mr. Mitchell entered a bank in South Burlington, Vermont. He displayed to the teller what appeared to be a firearm, but was in fact a

1 pellet gun. Mr. Mitchell demanded money and the teller complied, giving him  
2 approximately \$3,080.

3 Count 2: On April 4, 2014, Mr. Mitchell entered a bank in Naples, Florida. He  
4 displayed to the teller what appeared to be a firearm, but was in fact a pellet gun. Mr.  
5 Mitchell demanded money and the teller complied, giving him approximately \$5,600.

6 Count 3: On May 23, 2014, Mr. Mitchell entered a bank in Ocean Springs,  
7 Mississippi. He displayed to the teller what appeared to be a firearm. Mr. Mitchell  
8 demanded money and the teller complied, giving him approximately \$3,000.

9 Count 4: On May 30, 2014, Mr. Mitchell entered a bank in Manchester, New  
10 Hampshire. He displayed what appeared to be a firearm and yelled “Nobody move!”  
11 Mr. Mitchell demanded money and the teller complied, giving him approximately  
12 \$4,000.

13 Count 5: On July 28, 2014, Mr. Mitchell entered a bank in Seattle, Washington.  
14 He displayed what appeared to be a handgun, pointed it at the tellers, and demanded,  
15 “Cash now! Cash now!” The teller complied and gave him approximately \$890. Mr.  
16 Mitchell admitted he displayed a real firearm (a .22 caliber revolver) during this robbery.

17 Count 6: On July 29, 2014, Mr. Mitchell entered a bank in Seattle, Washington.  
18 He displayed what appeared to be a handgun in his waistband and said to the teller, “Give  
19 me all your hundreds and fifties. Don’t say anything or I will shoot you.” The teller  
20 complied and gave him approximately \$4,065. Mr. Mitchell admitted he displayed a real  
21 firearm (a .22 caliber revolver) during this robbery.

22 Count 7: On October 2, 2014, Mr. Mitchell entered a bank in Santa Barbara,  
23 California. He displayed what appeared to be a firearm to the teller and demanded  
24 money. The teller complied and gave him approximately \$11,000.

25 Count 8: On October 30, 2014, Mr. Mitchell entered a bank in Olympia,  
26 Washington. He displayed what appeared to be a handgun in his waistband and  
27 demanded “hundreds and fifties.” The teller complied and gave him approximately \$950.  
28

1 Count 9: On November 7, 2014, Mr. Mitchell entered a credit union in Spokane,  
2 Washington. He approached a teller and said, "Give me your money. I am armed." The  
3 teller complied and gave him approximately \$100.

4 Count 10: On September 11, 2014, Mr. Mitchell entered the jewelry department  
5 of the Nordstrom department store in downtown Seattle, Washington. He approached  
6 two salespeople and asked to see various items of jewelry. Mr. Mitchell then displayed  
7 what appeared to be a firearm and said, "The jewelry is not yours. If you try and follow  
8 me or have me followed, I will shoot you both." Mr. Mitchell fled with three items of  
9 jewelry with a total value of \$23,040.

10 Mr. Mitchell admits he used threatened force, violence, or fear when committing  
11 the above described crimes. Dkt. 31.

12 On January 22, 2016, this Court sentenced Mr. Mitchell to a 127-month term of  
13 imprisonment, imposed three years of supervised release to follow, and ordered him to  
14 pay \$55,575 in restitution. Dkt. 46.

15 Mr. Mitchell is currently housed at FCI Yazoo City Low, with a projected release  
16 date of January 25, 2024.

17 On June 3, 2020, Mr. Mitchell filed the instant motion for compassionate release,  
18 requesting the Court reduce his custodial sentence to time served, with the remainder  
19 converted to home confinement and/or participation in a residential reentry center  
20 program for up to 180 days, with the originally ordered term of supervision to begin  
21 immediately upon his release. As an alternative, if the Court were to determine early  
22 release is not warranted, Mr. Mitchell has requested the Court direct the Bureau of  
23 Prisons to transfer him to a medical facility or to a Bureau of Prisons facility which has  
24 not experienced an outbreak of coronavirus 19 (COVID-19). Dkt. 48, 56.

25 Mr. Mitchell's motion sets forth four principal arguments he contends present  
26 extraordinary and compelling reasons for his immediate release: his age, race, and  
27 compromised health, combined with the current situation at Yazoo City Low related to  
28 the outbreak of the COVID-19 global pandemic.

1 Mr. Mitchell is a 61-year-old African American man. He claims his age and race,  
2 combined with his medical conditions which include a history of high blood pressure and  
3 physical impairments due to a fracture of his C-5 vertebrae, place him at greater risk of  
4 suffering severe complications should he contract the virus. He contends FCI Yazoo City  
5 Low is unable to manage the pandemic, as evidenced by its high number of positive cases  
6 of COVID-19, including some deaths. Mr. Mitchell argues his release to the less risky  
7 environment of supervised release, home confinement, or a residential reentry program  
8 would not only protect him from increased risk of contracting COVID-19 and suffering  
9 complications associated with the virus, but also reduce the prison's overcrowding,  
10 improve staff-to-inmate ratios to inhibit the spread of the disease, and lessen the risks to  
11 other inmates. Mr. Mitchell contends he would not pose a danger to the community if  
12 released. Dkt. 48.

13 The government responds that because Mr. Mitchell has not presented  
14 extraordinary and compelling reasons for a reduction in sentence, and because he  
15 continues to present a danger to the community, his motion for compassionate release  
16 should be denied. The government argues that other than the general factors of his age  
17 and race, Mr. Mitchell has not made a showing that he has a specific medical condition  
18 that places him at risk for COVID-19, and that even if he does suffer from high blood  
19 pressure, the Centers for Disease Control (CDC) indicates high blood pressure only  
20 becomes a risk factor in connection with serious heart conditions. Moreover, the  
21 government notes Mr. Mitchell's medical records do not contain evidence that he suffers  
22 from high blood pressure. Additionally, the records do not contain an indication that Mr.  
23 Mitchell has tested positive for COVID-19. Finally, the government notes that Mr.  
24 Mitchell's claim to be at higher risk to become severely ill from COVID-19, and that his  
25 risk of contracting COVID-19 while in custody is significantly higher than if he were to  
26 be released, is a claim that would apply to everyone in confinement and does not  
27 constitute extraordinary and compelling reasons to grant Mr. Mitchell's motion. Dkt. 51.  
28

1 The government states that even if Mr. Mitchell was able to establish he has been  
2 diagnosed with medical conditions that place him at greater risk, releasing him would  
3 present a significant danger to others and to the community. Dkt. 51.

4 As to Mr. Mitchell's argument his age places him at higher risk, the government  
5 indicates the CDC lists those at higher risk as individuals age 65 and older. Mr. Mitchell  
6 is currently 61 years of age, and therefore not within the group with that particular risk  
7 factor. Dkt. 51.

8 While the government does not dispute that African Americans and other  
9 minorities have suffered disproportionately during the pandemic, it points to the  
10 suggestion of the CDC that the disproportionate rate of severe outcome is due to living  
11 conditions, work circumstances, lack of access to health care, and underlying health  
12 conditions. The government argues that the singular fact that Mr. Mitchell is African  
13 American does not elevate his risk of suffering from complications if he were to contract  
14 COVID-19. The government outlines in detail the steps being taken by the Bureau of  
15 Prisons at FCI Yazoo City Low to address the spread of the virus. Dkt. 51.

16 Finally, the government sets forth Mr. Mitchell's lengthy criminal history,  
17 indicating Mr. Mitchell would be a danger to others and to the community should his  
18 sentence be reduced to time served and he be released under any of the conditions  
19 proposed by Mr. Mitchell. For these reasons, the government argues Mr. Mitchell's  
20 motion for compassionate release should be denied. Dkt. 51.

## 21 II. DISCUSSION

### 22 A. Legal Standard for Compassionate Release

23  
24 18 U.S.C. § 3582(c)(1)(A) allows a court to reduce a term of imprisonment if  
25 "extraordinary and compelling reasons warrant such a reduction" and "such a reduction is  
26 consistent with applicable policy statements issued by the Sentencing Commission." The  
27 Sentencing Commission's policy statement, in turn, says that a court may reduce a term  
28 of imprisonment if "the defendant is not a danger to the safety of any other person or to

the community” and “extraordinary and compelling reasons warrant such a reduction.” United States Sentencing Guidelines (“USSG”) § 1B1.13. The policy statement clarifies that such reasons exist when (1) “the defendant is suffering from a terminal illness” or (2) “the defendant is suffering from a serious physical or mental condition . . . that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and from which he or she is not expected to recover.” USSG § 1B1.13 cmt. n.1. The policy statement also directs a court to consider the factors set forth in 18 U.S.C. § 3553(a) in deciding whether compassionate release is appropriate and what form compassionate release should take. USSC § 1B1.13 cmt. n.4.

Mr. Mitchell’s motion seeks a reduction in sentence under 18 U.S.C. § 3582(c)(1)(A), as amended by the First Step Act of 2018. As amended, § 3582(c)(1)(A) permits an inmate, who satisfies certain statutorily mandated conditions, to file a motion with the sentencing court for “compassionate release.” As relevant to Mr. Mitchell’s motion, the statute now provides:

(c) Modification of an imposed term of imprisonment. --The court may not modify a term of imprisonment once it has been imposed except that--

(1) in any case--

(A) the court, upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier, may reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that--

(i) extraordinary and compelling reasons warrant such a reduction;

. . .

and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

1 18 U.S.C. § 3582(c)(1)(A).

2 The relevant statute gives this Court authority to reduce a previously imposed  
3 sentence if three requirements are satisfied: (1) the inmate has either exhausted  
4 administrative review of the Bureau of Prison's failure to bring such a motion, or waited  
5 until 30 days after the request was made to the warden where the inmate is housed if that  
6 is earlier; (2) the inmate has presented extraordinary and compelling reasons for the  
7 requested reduction; and (3) the reduction is consistent with the Sentencing  
8 Commission's policy statement.

9  
10 **B. Exhaustion of Administrative Remedies**

11 It is undisputed that Mr. Mitchell has met the exhaustion requirement and that his  
12 request to this Court is timely. The parties agree he has met the exhaustion requirement  
13 of the First Step Act as he submitted his first request over 30 days ago and his second  
14 request to the warden on May 2, 2020, allowing over 30 days to pass by the time he filed  
15 his motion. Dkt. 48, Ex. A, Dkt. 51.

16 **C. Extraordinary and Compelling Circumstances**

17 The Court must next determine if extraordinary and compelling circumstances  
18 warrant a reduction of Mr. Mitchell's term of imprisonment. *See* 18 U.S.C.  
19 § 3582(c)(1)(A)(i); USSG § 1B1.13.

20 The policy statement referenced in § 3582(c)(1) was promulgated by the  
21 Sentencing Commission pursuant to the authority Congress vested in it in 28 U.S.C.  
22 § 994. That statute provides:

23 The Commission, in promulgating general policy statements regarding the  
24 sentencing modification provisions in section 3582(c)(1)(A) of title 18, shall  
25 describe what should be considered extraordinary and compelling reasons for  
26 sentence reduction, including the criteria to be applied and a list of specific  
27 examples. Rehabilitation of the defendant alone shall not be considered an  
extraordinary and compelling reason.

28 28 U.S.C. § 994(f).

1 Consistent with this statute, the applicable policy statement can be found at  
2 Section 1B1.13 of the United States Sentencing Guidelines. That statement provides:

3 Upon motion of the Director of the Bureau of Prisons under 18 U.S.C.  
4 § 3582(c)(1)(A), the court may reduce a term of imprisonment (and may  
5 impose a term of supervised release with or without conditions that does not  
6 exceed the unserved portion of the original term of imprisonment) if, after  
7 considering the factors set forth in 18 U.S.C. § 3553(a), to the extent that they  
8 are applicable, the court determines that--

9 (1)(A) Extraordinary and compelling reasons warrant the reduction...

10 (2) The defendant is not a danger to the safety of any other person or to the  
11 community, as provided in 18 U.S.C. 3142(g); and

12 (3) The defendant is not a danger to the safety of any other person or to the  
13 community, as provided in 18 U.S.C. § 3142(g); and

14 (4) The reduction is consistent with this policy statement.

15 U.S.S.G. § 1B1.13 (2019).

16 In the commentary, the Commission goes on to explain what constitutes  
17 “extraordinary and compelling reasons” to support a reduction in sentence.

18 Specifically, Application Note 1 provides that extraordinary and compelling reasons  
19 exist if the defendant is suffering from a serious physical or medical condition...that  
20 substantially diminishes the ability of the defendant to provide self-care within the  
21 environment of a correctional facility and from which he or she is not expected to  
22 recover.” U.S.S.G. § 1B1.13 cmt.n.1.

23 Mr. Mitchell argues extraordinary and compelling circumstances exist in light of  
24 the COVID-19 pandemic itself, focusing mainly on the conditions at the institution where  
25 he is housed as it relates to the number of inmates and staff who have contracted the  
26 virus, which have included some deaths. He claims his elevated risk of developing  
27 serious complications if he contracts the virus due to his age, race, and compromised  
28 health provide further extraordinary and compelling reasons the Court should order his  
release. Dkt. 48.



1 Mr. Mitchell contends his underlying health conditions of high blood pressure and  
2 his physical limitations due to a neck injury render him particularly vulnerable to serious  
3 illness and health complications should he contract COVID-19. He claims to have a  
4 history of high blood pressure, but admits he has not recently had his blood pressure  
5 tested. He claims to have a verified history of physical impairments due to a fracture of  
6 his C-5 vertebrae, which makes it difficult for him to move in an attempt to maintain  
7 social distancing. Dkt. 48. However, despite these claims, Mr. Mitchell did not submit a  
8 single medical record documenting these medical conditions.

9 When an inmate has health conditions that make them significantly more  
10 vulnerable to COVID-19, that may constitute an extraordinary and compelling  
11 circumstance. *See e.g., United States v. Cosgrove*, Case No. CR15-0230-RSM, -F. Supp.  
12 3rd-, 2020 WL 1875509 (W.D. Wash. April 15, 2020; *United States v. Dorsey*, Case No.  
13 CR16-0138-BLW-JCC, 2020WL 2562878 (W.D. Wash. May 19, 2020).

14 While some courts have held, as argued by the government, that the Sentencing  
15 Commission's policy statement on compassionate release remains controlling in the wake  
16 of the First Step Act, this Court agrees with the position taken by numerous courts that  
17 the "old policy statement provides helpful guidance, [but]...does not constrain [a court's]  
18 independent assessment of whether 'extraordinary and compelling reasons' warrant a  
19 sentence reduction under § 3852(c)(1)(A)." *United States v. Cosgrove, Id.; United States*  
20 *v. Rodriguez*, 2020 WL 1627331, (E.D. Penn. Apr. 1, 2020; *United States v. Almontes*,  
21 2020 WL 1812713 (D. Conn. Apr. 9, 2020); *United States v. Haynes*, No. 93 CR1043  
22 (RJD), 2020 WL 1941478 (E.D. N.Y. Apr. 22, 2020); and *United States v. Maumau*, No.  
23 2:08-cr-00758-TC-11, 2020 WL 806121 (D. Utah, Feb. 18, 2020).

24 The government states that Mr. Mitchell has made no real attempt to argue that he  
25 has a specific medical condition that places him at risk for COVID-19, aside from the  
26 suggestion he suffers from high blood pressure. The government provides evidence by  
27 way of Mr. Mitchell's medical records, which the Court agrees fails to support Mr.  
28 Mitchell's contentions regarding his compromised health. The medical records from Mr.

1 Mitchell's custodial time from 2016 to the present reflect that he has repeatedly denied  
2 suffering from high blood pressure and there is no evidence that he has received  
3 medication for this condition while incarcerated. Dkt. 51, Ex. A.

4 Mr. Mitchell's Compassionate Release Investigation reaffirms the absence of  
5 medical record evidence to support his claim. The Presentence Officer notes that despite  
6 Mr. Mitchell's claim that he has a history of high blood pressure, that claim is not noted  
7 anywhere in his presentence report or in his BOP medical records. Probation CR Invest.  
8 p. 1.

9 The cases cited by Mr. Mitchell are equally unpersuasive and inapposite. *Saad*,  
10 No. 16-20197, ECF No. 64, involved a 71-year-old man suffering chronic kidney disease,  
11 hypertension, pulmonary hypertension, sleep apnea, with a 2019 diagnosis of recurrent  
12 bladder cancer, and his cellmate had tested positive for COVID-19; *Miller v. United*  
13 *States*, No. 16-20222, 2020 WL 1814084 (E.D. Mich. Apr. 9, 2020) involved a 69-year-  
14 old man suffering from chronic lung disease, a serious heart condition and liver disease,  
15 all of which the CDC affirmed have a higher risk of severe illness; and *United States v.*  
16 *Perez*, No. 17 CR 513-3, 2020 1546422 (S.D.N.Y. Apr. 1, 2020) involved a defendant  
17 who had less than three weeks remaining on his sentence and the government conceded  
18 that he had a heightened risk of serious illness from a combination of injuries.

19 In addition, Mr. Mitchell may very well be suffering from an injury to his C-5  
20 vertebrae, but neck injuries are not a recognized risk factor for contracting COVID-19 or  
21 for an increased likelihood of suffering complications if infected.

22 The same holds true for Mr. Mitchell's argument relating to his age. Individuals  
23 over 65 are considered by the CDC to be at higher risk. At 61 years old, Mr. Mitchell is  
24 approaching that age group, but the Court cannot find he has established that his age  
25 comprises an extraordinary and compelling circumstance.

26 Finally, Mr. Mitchell notes that the CDC has indicated that hospitalizations and  
27 death rates for African Americans are "substantially higher" than that for whites, adding  
28 yet another elevated risk for him, as an African American man. Dkt. 48. The

1 government counters that the CDC's findings are not based on the simple fact that a  
2 person is African American, but that the heightened risk is due to complex societal  
3 realities related to unequal access to health care, work and living environments, and  
4 health conditions which factors have a greater impact on African American individuals.

5 The main argument set forth in Mr. Mitchell's motion for compassionate release is  
6 that the Bureau of Prisons (BOP) is not responding adequately to the COVID-19  
7 pandemic and is unable to keep Mr. Mitchell safe from contracting the virus. Mr.  
8 Mitchell's motion sets forth in detail evidence relating to the current conditions at FCI  
9 Yazoo City Low, including that according to BOP reports Yazoo City has one of the  
10 highest rates of inmate infections in the BOP system, and that three inmates in Yazoo  
11 City Low have now died from complications of the disease. Mr. Mitchell outlines the  
12 steps he has taken to protect his health, including his request to be placed in a segregated  
13 housing unit in an effort to avoid contact with other inmates. There is no indication Mr.  
14 Mitchell has ever been tested for COVID-19. Dkt. 48.

15 In response, the government has set forth in detail evidence relating to the BOP's  
16 efforts to combat and control the spread of COVID-19 in its facilities, including at FCI  
17 Yazoo City Low. The government argues that Mr. Mitchell's speculative fear of  
18 contracting the virus is insufficient to justify compassionate release, as the Bureau of  
19 Prisons has taken and will continue to take the necessary steps to safely house inmates  
20 during the pandemic. Dkt. 51.

21 Finally, the government reasons that because COVID-19 presents a health risk to  
22 everyone, including people who are currently incarcerated, there is no basis to find that  
23 Mr. Mitchell faces a significantly greater risk while in custody than he would face in the  
24 community if he were to be released. Dkt. 51.

25 In reply, Mr. Mitchell asserts the government has minimized the conditions at  
26 Yazoo City Low and that the BOP is failing to take adequate steps to contain and control  
27 the virus. He indicates the BOP's claims regarding the sufficiency of its response to the  
28

1 pandemic are untrustworthy, and details Mr. Mitchell's living conditions which make  
2 social distancing to protect his own health impossible. Dkt. 56

3 The government concedes that Mr. Mitchell is being held at a Bureau of Prisons  
4 facility that has experienced an outbreak of COVID-19 that includes positive tests,  
5 recoveries from the virus, and deaths. The government has also outlined the series of  
6 methods that have been engaged to combat the disease. This Court does not dispute that  
7 challenging and deadly conditions may exist at varying prison facilities around the United  
8 States, including FCI Yazoo City Low. What is critical for this Court's determination of  
9 Mr. Mitchell's motion is whether his individual circumstances warrant compassionate  
10 release.

11 Considering the foregoing, what remains is Mr. Mitchell's fear of contracting the  
12 disease as opposed to suffering from the same, and the concern about the Bureau of  
13 Prisons' ability to provide a safe environment.

14 In this case, the Court does not find that Mr. Mitchell has demonstrated sufficient  
15 facts or evidence to warrant compassionate release. At best, he poses generalized  
16 questions about the uncertainty of next steps for COVID-19 in FCI Yazoo City Low and  
17 the restrictions on his daily living activities.

18 General concerns about possible exposure to COVID-19 do not meet the criteria  
19 for extraordinary and compelling reasons for a reduction in sentence as set forth in the  
20 Sentencing Commission's policy statement on compassionate release, U.S.S.G. § 1B1.13.  
21 *United States v. Eberhart*, No. 13-cr-00313, 2020 WL 1450745 (N.D. Cal. Mar. 25,  
22 2020). Nor do such fears warrant a sentence reduction under the Court's independent  
23 assessment of the facts and circumstances presented.

#### 24 **D. Safety of Others**

25 The Court next turns to whether Mr. Mitchell presents a danger to the safety of  
26 any other person or to the community. *See* U.S.S.G. §1B1.13(2). In making this  
27 determination, the Court looks to the nature and circumstances of the underlying offense,  
28

1 the weight of evidence against him, his history and characteristics, and the nature and  
2 seriousness of the danger his release would pose to any person or the community. 18  
3 U.S.C. §3142(g).

4 Mr. Mitchell's criminal conduct in this matter was serious and supported by  
5 substantial evidence as contained in the Plea Agreement, which sets forth in detail the  
6 acts Mr. Mitchell agreed he committed, as outlined above. Dkt. 31.

7 Mr. Mitchell asserts he would not pose a danger to the community if released  
8 immediately, particularly as he would be under the supervision of Probation. He  
9 acknowledges his offenses are serious and his criminal history disturbing, but argues that  
10 the Court should balance his criminal history against his current circumstances. He  
11 maintains that in light of his age and health issues, any danger is minimal and that the  
12 risks to Mr. Mitchell outweigh his potential danger to the community. He argues that the  
13 Court can impose conditions of release adequate to protect others and the community,  
14 and that supervision will lessen his likelihood to reoffend. Dkt. 48, 56.

15 The government responds that the evidence before the Court precludes a finding  
16 Mr. Mitchell is no longer a danger to the community and disagrees that any risk may be  
17 mitigated through Mr. Mitchell's suggested conditions of release. The government  
18 highlights Mr. Mitchell's extensive criminal history. PSR ¶¶ 105-116. When Mr.  
19 Mitchell was 23 years old, he was convicted in Canada of Breaking and Entering, Armed  
20 Robbery, Possession of an Unregistered Restricted Weapon, Assault Causing Bodily  
21 Harm, and Kidnapping. PSR ¶ 109. When he was 29 years old, he was convicted of  
22 Bank Robbery in Florida and sentenced to 57 months in custody. PSR ¶ 111. Also when  
23 he was 29 years old, Mr. Mitchell was convicted in this district of five counts of Armed  
24 Bank Robbery and sentenced to 207 months of imprisonment. PSR ¶ 113. The  
25 conviction for which Mr. Mitchell is currently incarcerated is his third federal conviction  
26 for Bank Robbery.  
27  
28

1       The government argues that Mr. Mitchell's institutional history suggests he will  
2 continue his criminal activity should he be released, citing the multiple incidences of  
3 infractions Mr. Mitchell has received while in custody. Dkt. 51, Ex. C. The government  
4 contends Mr. Mitchell has demonstrated that he presents a risk to the community if  
5 released, that nothing about the COVID-19 pandemic reduces his danger to others and to  
6 the community, and that he poses a high risk of reoffending if he were to be released.  
7 Dkt. 51.

8       The Court agrees with the government's analysis and sees no mitigation of this  
9 concern from the record or proposal submitted by Mr. Mitchell. The danger to the  
10 community that would be experienced by his release far outweighs his generalized  
11 concerns of contracting the COVID-19 virus.

12       **E. Other 18 U.S.C. § 3553(a) Factors**

13       Having made the foregoing determination, the Court sees no need to further  
14 address the 18 U.S.C. §3553 (a) factors.

15       The existence of COVID-19 is a significant concern to this Court, as well as Mr.  
16 Mitchell's well-being. The §3553 factor analysis supported the sentence that was  
17 previously imposed and nothing in the current record warrants a modification in Mr.  
18 Mitchell's sentence and certainly not a reduction for compassionate release.  
19

20       **F. Consistency with Policy Statement**

21       Last, the Court must determine whether Mr. Mitchell's compassionate release  
22 would be consistent with the relevant policy statement. *See* U.S.S.G. § 1B1.13(3). The  
23 policy requires the Court to make certain findings before granting an inmate's request for  
24 compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A). The Court has done so  
25 with the detail contained in this order.

26 ///

27 ///

28 ///

